

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
Southern Division

State of South Dakota, by and through
Its Board of Regents,

Case No. 14 - CV - 4107

Plaintiff,

v.

Juneau Construction Company, LLC,
a Foreign Corporation and
Carlisle Insulation, Inc., a Foreign Corporation,

Defendants.

Steven L. Theesfeld #4255
Attorney for Plaintiff
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COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES Plaintiff State of South Dakota, by and through its Board of Regents, by
and through its counsel YOST & BAILL, LLP, and for its Complaint states as follows:

JURISDICTION & VENUE

1. Jurisdiction is founded upon diversity of citizenship pursuant to 28 U.S.C. § 1332.
2. Venue is proper within this jurisdiction pursuant to 28 U.S.C. § 122 because the
situs of the incident occurred in Clay County, South Dakota.

PARTIES

1. That Plaintiff State of South Dakota, by and through its Board of Regents, is a
South Dakota public entity, with its headquarters and principal place of business in Pierre, South

Dakota, and is engaged in the business of governing the public higher education system in South Dakota.

2. Upon information and belief, Defendant Juneau Construction Company, LLC, with its place of incorporation in Georgia, is a foreign corporation engaged, among other things, in the business of construction, with its principal place of business and registered agent address located at 3715 Northside Parkway, Building 300, Suite 750, Atlanta, GA 30327.

3. Upon information and belief, Defendant Carlisle Insulation, Inc., with its place of incorporation in Nebraska, is a foreign corporation engaged, among other things, in the business of the insulation sales and installation, with its principal place of business located at 5016 Woolworth Ave, Omaha, NE 68106 and registered agent of Robert M. Gonderinger, Suite 1250, 2120 South 72nd Street, Omaha, NE 68124.

4. At all times relevant, Travelers Casualty Insurance Company of America issued a policy of insurance to Plaintiff which provided amongst other items, property damage coverage.

ALLEGATIONS

5. That on or about May 2010, construction was substantially completed on Coyote Village Residential Life Complex project “the Project” located in Vermillion, SD, which was a new addition to the University of the South Dakota residence hall complex that is governed by Plaintiff.

6. That upon information and belief, Defendant Juneau Construction Company, LLC served as the general contractor for the Project and was responsible for performing and overseeing all construction at the Project.

7. That upon information and belief, Defendant Carlisle Insulation, Inc. served as the insulation contractor for the Project and was responsible for performing and overseeing all insulation-related aspects at the Project.

8. That upon information and belief, on January 22, 2013, a pipe froze and burst in the mechanical room at the Project and began to leak water into that room, hallways and adjoining rooms.

9. That upon information and belief, the aforementioned incident was the result of inadequate insulation.

10. The resulting water leakage caused damage and necessitated repairs in an amount in excess of \$75,000.

11. That as a result of the January 22, 2013 incident and resulting damages, pursuant to the insurance policy with its insured, Travelers Casualty Insurance Company of America issued payment to or on behalf of its insured in an amount in excess of \$75,000.

12. That by virtue of said payments, Travelers Casualty Insurance Company of America is subrogated to the rights of its insured against the Defendants herein in an amount in excess of \$75,000.

COUNT I – NEGLIGENCE - JUNEAU CONSTRUCTION, LLC

12. Plaintiff realleges all prior paragraphs as though fully set forth herein.

13. Juneau Construction, LLC had a duty to conduct its contracting services at the Project in a workmanlike manner that did not endanger the property of others.

14. Juneau Construction, LLC breached its duties as specified in Paragraph 13 above by negligently and improperly constructing the Project and by negligently hiring and supervising its subcontractors.

15. As a result of Juneau Construction, LLC's negligent conduct, Plaintiff incurred a loss in an amount in excess of \$75,000.

COUNT II – NEGLIGENCE - CARLISLE INSULATION, INC.

16. Plaintiff realleges all prior paragraphs as though fully set forth herein.

17. Carlisle Insulation, Inc. had a duty to conduct its insulation contracting services at the Project in a workmanlike manner that did not endanger the property of others.

18. Carlisle Insulation, Inc. breached its duties as specified in Paragraph 17 above by negligently and improperly insulating the Project.

19. As a result of Carlisle Insulation, Inc.'s negligent conduct, Plaintiff incurred a loss in an amount in excess of \$75,000.

COUNT III - RESPONDEAT SUPERIOR – JUNEAU CONSTRUCTION, LLC

20. Plaintiff realleges the preceding paragraphs as set forth hereinabove.

21. As a general contractor overseeing a hired subcontractor, Juneau Construction, LLC had a duty to oversee its subcontractors and to ensure that the work at the Project was being performed in accordance with the industry's standards.

22. As the general contractor, Juneau Construction, LLC is responsible for any negligent acts of its subcontractor, Carlisle Insulation, Inc.

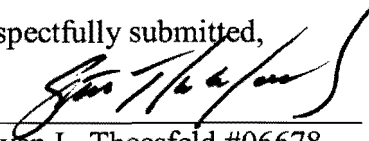
23. As a result of the preceding and subsequent negligence of Carlisle Insulation, Inc., Defendant Juneau Construction, LLC is liable to Plaintiff in a sum in excess of \$75,000.

WHEREFORE, Plaintiff prays for judgment jointly and severally against Defendants in an amount in excess of \$75,000.00, together with prejudgment interest thereon, costs and disbursements herein, and for such other and further relief as the Court deems just and equitable.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES HEREIN

Date: 7/10/14

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven L. Theesfeld", written over a horizontal line.

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